

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY  
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 21957 of 2004**

Between:

C.Dastaiah S/o.Samappa  
R/o.7-17, Karnakote Village, Tandur (M) R.R.District.

**..... PETITIONER**

AND

- 1 The Chairman and Managing Director, Cement Corporation of India Ltd.,  
Scope Complex, Ladhi Road, New Delhi.
- 2 The General Manager, Cement Corporation of India Ltd.,  
Karnakote Village, Tandur (M) R.R.District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring the action of the respondents in not considering the petitioner's application dt.11.6.2003 and the petitioners and his wife representation dt.24.6.2003 28-6-2003, 28.2.2004 and 6.10.2004 and the acts of confining and forcefully taking signatures on withdraw forms of accumulated provident fund is highly arbitrary, illegal and unconstitutional and consequently to direct the respondents to allow the petitioner to work and pay the salary up to date.

**Counsel for the Petitioner: MR.SYEDABDUL KAREEM**

**Counsel for the Respondents: MR.N.NARASIMHARAO**

**The Court made the following :**

**THE HONOURABLE SRI JUSTICE K.C.BHANU**

**WRIT PETITION NO.21957 OF 2004**

**ORDER:**

The writ petition is filed to issue writ of mandamus declaring the action of the respondent in not considering the petitioner's application dated 11.06.2003 and the petitioner's wife representations dated 24.06.2003, 28.02.2004 and 06.10.2004 and the acts of confining and forcibly taking signatures on the withdrawal form pertaining to accumulated provident fund, is highly arbitrary and illegal.

The brief facts that are necessary for the disposal of the writ petition may be stated as follows:

The petitioner was appointed as Ward boy in the 1<sup>st</sup> respondent organization on compassionate ground. As his sister had given agricultural land admeasuring Ac.11.33 gts in survey No.70 of Karankote village, Ranga Reddy District to respondents company in the year 1986, after surrender of agricultural land which was their only source of livelihood, the 1<sup>st</sup> respondent provided a job of ward boy to the writ petitioner. A notification for voluntary retirement scheme was displayed on 02-06-2003 and the last date for applying and withdrawing the same was 10.06.2003. Thereafter it was again extended from 11.06.2003 to 17.06.2003. In pursuance of the said proceedings, the writ petitioner submitted an application opting V.R.S. on 10.06.2003 and on the very next day he submitted another application for cancellation of V.R.S. in the stipulated time. In spite of his application dated 11.06.2003 for cancellation of application opting V.R.S., the authorities of the 2<sup>nd</sup> respondent confined him and forcibly took his signature on the withdrawal form of accumulated provident

fund to his shock and surprise. He faxed the cancellation letter of V.R.S. to the Chairman and Managing Director on 11.06.2003 and he gave further representations, but of no avail. Therefore, the present writ petition is filed.

The respondent filed a counter-affidavit stating that the petitioner submitted an application on 10.06.2003 seeking voluntary retirement from service in terms of Corporation circular dated 02.06.2003. The said application was provisionally accepted and conveyed to him on the same day. Thereafter, his application was forwarded to the Head Office, which was accepted, retiring him from service voluntarily as per his request. Therefore, he was relieved with effect from 16.07.2003 as per the orders issued from the Head Office. He was issued service Certificate dated 19.07.2003. The petitioner on his voluntary retirement was paid *ex gratia* and gratuity in terms of the scheme. He was paid Rs.2,75,964/- towards *ex gratia* and Rs.52,350/- towards gratuity. Thereafter, he submitted an application on 19.09.2003 for settlement of provident fund. The same was forwarded to the department concerned and ultimately an amount of Rs.13,414/- was paid to the petitioner on 29.01.2004. He submitted an application for settlement of pension and the respondent requested him to furnish some particulars vide letter dated 24.02.2004. The petitioner having received all the benefits under the Voluntary Retirement Scheme, filed the present writ petition after one and half years. The averments that the petitioner submitted the withdrawal application on the very next day and thereafter his wife submitted number of representations seeking withdrawal applications, are not correct. The further averments that the authorities forcibly obtained his signatures on withdrawal of provident fund application, are not correct. Hence, there are no grounds to allow the writ petition.

It is a fact that the sister of the writ petitioner had given Ac.11.33 gts in survey No.70 of Karankote village, Rangareddy District to the respondent company in the year 1986. It is also not in dispute that the 1<sup>st</sup> respondent provided Ward boy job to the writ petitioner. Admittedly, the petitioner opted for voluntary retirement scheme in pursuance of the Circular No: PDR/7(8)/2003/7954 dated 02.06.2003. According to the writ petitioner, on the very next day i.e., on 11.06.2003, he submitted an application for cancellation of V.R.S. in the stipulated time. But according to the respondents, the application of the petitioner, dated 10.06.2003 has been accepted provisionally and his

application was forwarded to the Head office, which was accepted by retiring from service with effect from 16.07.2003. The writ petitioner has not filed any material to show that before acceptance of V.R.S. by the competent authority, he submitted an application for cancellation of V.R.S. Inasmuch as the respondents disputing about the petitioner submitting withdrawal application on the very next day, as seen from the counter allegations, the petitioner has not received all the amounts due from the respondents in pursuance of the acceptance of the voluntary retirement scheme one and half years after relieving from the post, the present writ petition is filed. There is no substantial truth in the case of the petitioner because he failed to file any document to show that he filed an application for withdrawal of voluntary scheme before acceptance of V.R.S. in pursuance of the application dated 10.06.2003. The representations said to have been filed are not authenticated copies inasmuch as they do not contain any seal of the office of the respondents to show that they have been received by the respondents. Therefore, the allegations in the affidavit with regard to the withdrawal of his application dated 11.06.2003 from voluntary retirement scheme, which was denied by the respondents, cannot be accepted as true. Therefore, the writ petition is devoid of merit and is accordingly dismissed.

.02.2005

MRKR

To

- 1 The Chairman and Managing Director, Cement Corporation of India Ltd.,  
Scope Complex, Ladhi Road, New Delhi.
- 2 The General Manager, Cement Corporation of India Ltd.,  
Karnakote Village, Tandur (M) R.R.District.
- 3 Two C.D.copies.

